

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 519

Introduced by Assembly Member Duvall

February 24, 2009

An act to add Section 22651.07 to the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 519, as amended, Duvall. California Consumer Bill of Rights for Towed Vehicles.

Existing

(1) *Existing* law authorizes a peace officer, or a regularly employed and salaried public employee, who is engaged in directing traffic or enforcing parking laws and regulations, to remove a vehicle located within the territorial limits in which the officer or employee is allowed to act under specified circumstances, including, among other things, when a vehicle is illegally parked and blocks the movement of a legally parked vehicle. A violation of this provision is an infraction.

This bill would ~~declare the Legislature's intent to enact legislation to~~ establish a, and require a person or towing company that charges for towing and storage to post a specified copy of, the "California Consumer Bill of Rights for Towed Vehicles," that contains specific information regarding a vehicle owner's rights and responsibilities if his or her vehicle is towed, and would require, among other things, that it be posted in a vehicle the office area of a vehicle the storage facility in plain view to the public, and would also require that copies be made readily available to the public.

The bill would require a person or towing company that charges for towing and storage to provide, upon request, a copy of the California Consumer Bill of Rights for Towed Vehicles to any owner or operator of a towed or stored vehicle and would require the person or towing company to provide a separate and distinct notice on an itemized invoice for any towing and storage charges.

By creating a new crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22651.07 is added to the Vehicle Code,
2 to read:
3 22651.07. (a) A person or towing company that charges for
4 towing and storage shall post in the office area of the storage
5 facility, in plain view to the public, the California Consumer Bill
6 of Rights for Towed Vehicles and have copies readily available to
7 the public.
8 (b) A person or towing company that charges for towing and
9 storage shall upon request provide a copy of the California
10 Consumer Bill of Rights for Towed Vehicles to any owner or
11 operator of a towed or stored vehicle.
12 (c) A person or towing company that charges for towing and
13 storage shall provide a separate and distinct notice on an itemized
14 invoice for any towing and storage charges stating: "Upon request,
15 you are entitled to receive a copy of the California Consumer Bill
16 of Rights for Towed Vehicles." This notice shall be contained
17 within a bordered text box, printed in no less than 10-point type.
18 (d) The California Consumer Bill of Rights for Towed Vehicles
19 shall be a separate standardized document and plainly printed in
20 no less than 10-point type. A person or towing company may
21 distribute the form using its own letterhead, but the language of

the California Consumer Bill of Rights for Towed Vehicles shall read as follows:

| |
|---|
| <u>California Consumer Bill of Rights for Towed Vehicles</u> |
| <u>Who can tow your vehicle?</u> |
| Law enforcement officials can order “public tows,” when vehicles: |
| <ul style="list-style-type: none"> • Have been involved in an accident. • Are being driven by an unlicensed driver. • Have unpaid parking tickets. • Have registrations expired in excess of 6 months. • Are disabled (broken down). • Are parked in tow-away or other no-parking zones. • Block private driveways. • Are abandoned or threaten public health or safety. • The driver has been arrested for or committed a criminal act. |
| (Additional circumstances may apply.) |
| A private property owner or his or her agent by written agreement with a towing company can order a “private property tow” if a vehicle is illegally or improperly parked on private property. (The towing company may not act as the agent for the private property owner and authorize the tow.) |
| The vehicle’s owner or driver can make arrangements directly with a towing company to tow his or her vehicle. This is commonly referred to as an “owner’s request tow.” |
| <u>How much can a towing company charge?</u> |
| Rates for public tows and storage are generally established by the law enforcement agency requesting the tow (to confirm the approved rates, you may contact the law enforcement agency that initiated the tow; additionally, these rates are required to be posted at the storage facility). |
| Rates for private property tows and storage can not exceed the approved rates for the law enforcement agency that has primary jurisdiction for the property from which the vehicle was removed or the towing company’s approved CHP rate. |

| | |
|----|---|
| 1 | <i>Rates for owner's request tows and storage are generally established by mutual</i> |
| 2 | <i>agreement between the requestor and the towing company, but may be dictated</i> |
| 3 | <i>by agreements established between the requestor's motor club and motor club</i> |
| 4 | <i>service provider.</i> |
| 5 | |
| 6 | <u>If my vehicle was towed how can I find it?</u> |
| 7 | |
| 8 | <i>Call your local law enforcement agency. Vehicles placed in storage after either</i> |
| 9 | <i>a public or private tow are reported to law enforcement.</i> |
| 10 | |
| 11 | <u>Where can you complain about a towing company?</u> |
| 12 | |
| 13 | <i>Public tows: The law enforcement agency initiating the tow.</i> |
| 14 | <i>Private property tows: The local law enforcement agency or District Attorney's</i> |
| 15 | <i>or City Attorney's office in your area. (The towing company is required to</i> |
| 16 | <i>provide you with the agency's name and telephone number.)</i> |
| 17 | |
| 18 | <u>Your rights if your vehicle is towed:</u> |
| 19 | |
| 20 | <i>If the owner or driver is present prior to the vehicle being towed the tow truck</i> |
| 21 | <i>operator must provide the vehicle owner or driver with the following</i> |
| 22 | <i>information:</i> |
| 23 | • <i>A list of all towing and storage-related fees.</i> |
| 24 | • <i>A signed authorization of services containing the date and time of the tow;</i> |
| 25 | <i>location from which the vehicle will be towed; the location where the vehicle</i> |
| 26 | <i>will be towed or stored; the vehicle operator's or vehicle owner's name and</i> |
| 27 | <i>address (if obtainable); the odometer reading (if obtainable) and the name,</i> |
| 28 | <i>address, and telephone number of the towing company and the storage facility</i> |
| 29 | <i>if different from the towing company.</i> |
| 30 | |
| 31 | <i>Prior to paying any towing and storage-related fees you have the right to:</i> |
| 32 | |
| 33 | • <i>Receive a clear and itemized invoice of actual charges.</i> |
| 34 | • <i>Receive your personal property, at no charge, during normal business hours.</i> |
| 35 | • <i>Retrieve your vehicle during the first 72 hours of storage and not pay a lien</i> |
| 36 | <i>fee.</i> |
| 37 | • <i>Request a copy of the California Consumer Bill of Rights for Towed Vehicles.</i> |
| 38 | • <i>Pay by cash or credit card.</i> |

| | |
|----|---|
| 1 | ● <i>Have you or your insurance carrier inspect your vehicle at the storage</i> |
| 2 | <i>facility during normal business hours.</i> |
| 3 | |
| 4 | <i>You have the right to have the vehicle released to you upon (1) payment of all</i> |
| 5 | <i>towing and storage-related fees, (2) presentation of a valid photo identification,</i> |
| 6 | <i>and (3) presentation of reliable documentation showing that you are the owner</i> |
| 7 | <i>of the vehicle or that the owner has authorized you to take possession of the</i> |
| 8 | <i>vehicle.</i> |
| 9 | |
| 10 | <i>Prior to your vehicle being repaired:</i> |
| 11 | |
| 12 | ● <i>You have the right to choose the repair facility and to have no repairs made</i> |
| 13 | <i>to your vehicle unless you authorize them in writing.</i> |
| 14 | ● <i>Any authorization you sign for towing and any authorization you sign for</i> |
| 15 | <i>repair must be on separate forms.</i> |
| 16 | |
| 17 | <u>What is the towing company required to do prior to towing your vehicle?</u> |
| 18 | |
| 19 | <i>Prior to towing your vehicle, the towing service must do all of the following:</i> |
| 20 | ● <i>Have a Motor Carrier Permit (issued by DMV) and display their Carrier</i> |
| 21 | <i>Identification Number (issued by CHP) on their tow truck.</i> |
| 22 | ● <i>Have insurance as required by the California Vehicle Code.</i> |
| 23 | ● <i>Have “On-Hook” or “Cargo” insurance that covers your vehicle while in</i> |
| 24 | <i>transit as required by the California Vehicle Code.</i> |
| 25 | ● <i>Have posted in the office area of the storage facility, in plain view to the</i> |
| 26 | <i>public, its towing and storage-related fees.</i> |
| 27 | ● <i>Have posted in the office area of the storage facility, in plain view to the</i> |
| 28 | <i>public, the California Consumer Bill of Rights for Towed Vehicles and have</i> |
| 29 | <i>copies easily available to the public.</i> |
| 30 | ● <i>A signed authorization for services containing the date and time of the tow;</i> |
| 31 | <i>location from which the vehicle will be towed; the location where the vehicle</i> |
| 32 | <i>will be towed or stored; the vehicle operator’s or vehicle owner’s name and</i> |
| 33 | <i>address (if obtainable); the odometer reading (if available); and the name,</i> |
| 34 | <i>address, and telephone number of the towing company and the storage facility</i> |
| 35 | <i>if different from the towing company.</i> |
| 36 | |
| 37 | <u>What if I do not pay the towing and storage-related fees or abandon my</u> |
| 38 | <u>vehicle at the towing company?</u> |
| 39 | |

1 *The towing company will hold a public auction to sell your vehicle and any*
2 *moneys received will be applied to towing and storage-related fees that have*
3 *accumulated against your vehicle.*

5 *You are responsible for paying the towing company any outstanding balance*
6 *of these fees once the auction is complete.*

9 *(e) Prior to paying any towing, recovery, or storage-related*
10 *fees, you or your agent have the right to all of the following:*

11 *(1) Receive a clear, itemized, and detailed invoice of actual*
12 *charges.*

13 *(2) Receive your personal property, at no charge, during normal*
14 *business hours.*

15 *(3) Retrieve your vehicle during the first 72 hours of storage*
16 *and not pay a lien fee.*

17 *(4) Request a copy of the California Consumer Bill of Rights*
18 *for Towed Vehicles.*

19 *(5) Pay by cash or credit card.*

20 *(f) "Itemized invoice," as used in this section, means a written*
21 *document that substantially contains the following information:*

22 *(1) The name, address, telephone number, and carrier*
23 *identification number as required by subdivision (a) of Section*
24 *34507.5 of the person or towing company that is charging for*
25 *towing and storage.*

26 *(2) If ascertainable, the registered owner or operator's name,*
27 *address, and telephone number.*

28 *(3) The date service was initiated.*

29 *(4) The specific location of the vehicle at the time service was*
30 *initiated, including either the exact address or nearest intersecting*
31 *roadways.*

32 *(5) A vehicle description that includes, if ascertainable, the*
33 *vehicle year, make, model, odometer reading, license plate number,*
34 *or if a license plate number is unavailable, the vehicle*
35 *identification number (VIN).*

36 *(6) The service dispatch time, the service arrival time of the*
37 *vehicle, and the service completion time.*

38 *(7) A clear, itemized, and detailed explanation of any additional*
39 *services that caused the total towing-related service time to exceed*

1 *one hour between service dispatch time and service completion*
2 *time.*

3 *(8) The hourly rate or per item rate used to calculate the total*
4 *towing and recovery-related fees. These fees shall be listed as*
5 *separate line items.*

6 *(9) If subject to storage fees, the daily storage rate and the total*
7 *number of days stored. The storage fees shall be listed as a*
8 *separate line item.*

9 *(10) If subject to an after-hours fee, gate fee, or other similar*
10 *fee, the date and time the vehicle was released. An after-hours fee,*
11 *gate fee, or other similar fee shall be listed as a separate line item.*

12 *(11) A distinct and separate notice, contained within a bordered*
13 *text box, printed in 10-point type, stating: "Upon request, you are*
14 *entitled to receive a copy of the California Consumer Bill of Rights*
15 *for Towed Vehicles."*

16 *(12) A description of the method of towing.*

17 *SEC. 2. No reimbursement is required by this act pursuant to*
18 *Section 6 of Article XIII B of the California Constitution because*
19 *the only costs that may be incurred by a local agency or school*
20 *district will be incurred because this act creates a new crime or*
21 *infraction, eliminates a crime or infraction, or changes the penalty*
22 *for a crime or infraction, within the meaning of Section 17556 of*
23 *the Government Code, or changes the definition of a crime within*
24 *the meaning of Section 6 of Article XIII B of the California*
25 *Constitution.*

26 ~~SECTION 1. It is the intent of the Legislature to enact~~
27 ~~legislation to establish a "California Consumer Bill of Rights for~~
28 ~~Towed Vehicles," require that it be posted in the office area of a~~
29 ~~vehicle storage facility in plain view to the public, and require that~~
30 ~~copies be made readily available to the public.~~